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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,386	07/17/2003	James G. Prather	MW014	4705

7590 01/25/2005

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EXAMINER

SWENSON, BRIAN L

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,386

Applicant(s)

PRATHER ET AL.

Examiner

Brian Swenson

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the abstract is longer than 150 words. Additionally, the abstract should begin with "A shopping cart including a wheeled base having....".

Correction is required. See MPEP § 608.01(b).

Drawings

3. The drawings are objected to because: the character of the lines, numbers and letters are not uniformly thick, well-defined, neat, see 37 CFR 1.84(L).
4. The drawings are additionally objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "transverse member 262" found on the last line of page 6 is not found in Figure 5. Is applicant referring to transverse member 292, found in Figure 5?

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Formal drawings will be required at the time of allowance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-21, are replete with functional and indefinite language and are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claims 2 and 3 recite the limitation "said basket" in line 1 of the claims;
- b. Claim 7 recites the limitation "said handle member" in line 1 of the claim;
- c. Claim 8 recites the limitation "said table portion" in line 3 of the claim;
- d. Claim 9 recites the limitation "the table portion" in line 2 of the claim;

e. Claims 11 and 15-21 recite the limitation, "of conventional shopping carts". The limitation, "of conventional shopping carts" is not of proper scope as a, "conventional shopping cart" has not been positively recited leaving it unclear and indefinite as to what is encompassed by the comparison with the claimed shopping cart and the "conventional shopping cart".

There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2-15, 21-22, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,507,507 issued to Davidson.

Davidson, teaches in Figures 1-9 and respective portions of the specification of a: shopping cart (10) including: a wheeled base (rails 22,24 and casters 14), a container (18B) supported by the base, a pedestal (36) formed on the base for supporting a container thereon, the pedestal being secured to the base at a location between the forward and rearward ends of the base, the container being supported on the rear of the table portion pedestal so that the rear of the container is disposed forwardly of the rear of the base: see Figure 2 where the pedestal is shown with a slight inclination where the front of the pedestal is placed higher than the rear, a handle member (66) located a substantial distance upward from a basket (18b) that is part of the container, two rods

(26) connecting to a forward attachment of the handle and to the pedestal and two rods (32) for connecting a rearward attachment of the handle to the base. Davidson, teaches of two hinge rods (62) for pivoting of a rear gate; Figure 5. Davidson teaches in Figure 6 of a child seat that can be attached to the rear of the basket and shows in Figure 5 the child seat can be pivoted to a nonfunctional position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16-20, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson.

Davidson as disclosed above discloses the claimed invention including teaching of a pair of horizontal rods (62) separated vertically, but does not teach of the rods connected to the spine (26). Davidson shows in Figure 2 the upper rod (62) lies nearly in substantially the same plane as the handle and forms a pivot connection for the rear gate; Figure 5. It would have been obvious to one having ordinary skill in the art at the time of invention to connect the pair of horizontal rods to the spine, one would be motivated to connect the rods to the spline to increase the strength and robustness of the cart.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,903,269 issued to Hennion teaches of a shopping cart with a telescoping lower support.

U.S. Patent No. 6,406,041 issued to Rea teaches of a forward placed basket.

U.S. Patent No. 4,335,892 issued to Berlin teaches of a car with an U-shaped pedestal support.

U.S. Patent No. 5,401,042 issued to Ruger teaches of a shopping cart with a truss support system.

U.S. Patent No. 4,084,832 issued to Upshaw teaches of a shopping cart with a low center of gravity.

U.S. Patent No. 5,435,582 issued to Davidson and U.S. Patent No. 6,644,674 issued to Simard teach of multiple basket shopping carts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (703) 305-8163. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BIS 1/18/05

bls

Brian Swenson
Examiner
Art Unit 3618



CHRISTOPHER P. ELLIS
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